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**Chairman Randolph and Fellow Commissioners
Fair Political Practices Commission**

**FROM: Ernest A. Conant,
Phillip W. Hall**

DATE: January 17, 2006

**COMMENTS ON THE PROPOSED ADOPTION OF
REGULATION 18371 (LOCAL AGENCY ETHICS TRAINING)—
AGENDA ITEM #21**

As way of introduction, our firm represents the numerous public entities affected by the new requirements of *AB1234* copied below. The following is our thoughts and written comments on the proposed adoption of Regulation 18371 (Local Agency Ethics Training). While we understand and agree that the statutes and regulations listed in the proposal are important, and should be covered in most instances, we have some reservations about the wording current proposal. The following comments address those reservations, while also providing the Commission with our recommendations on changes to the proposal.

Trainer/Counsel Discretion:

First, given the vast differences between the public entities affected by *AB1234* we feel that the person conducting the ethics training should have considerable discretion in which topics to cover and the depth that should be involved, especially if that person is the agencies legal counsel. A requirement that all of the statutes and regulations currently listed in the proposal be touched upon with any detail in a two hour training program would be difficult to meet at best, due to the time constraints involved.

In contrast, a discretionary approach will allow the presenter to focus the training not only in a more time effective manner but will allow also the presenter to focus the training on the specific circumstances and needs of the particular public entity and those being trained. In practice, this approach would allow a presenter training an agency that has had issues in a certain arena the opportunity to focus the training in a manner to

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correct that issue. Likewise, a presenter faced with a small entity whose members do not campaign for office would be able to largely bypass, or abbreviate, the campaign issues and focus the training on areas that are more germane to the needs of the entity and those being trained. Additionally, this approach would allow the trainer to focus on the upcoming needs of the public entity.

The benefits to a discretionary approach are twofold. First the training will be more productive as it will focus on the issues facing the agency and thus capture the attention of the participants. Secondly, this approach will give the presenter the opportunity to address and educate the participants in areas of the law that are often overlooked by the agency until there is a problem.

Consultation and Review of Self-Study Programs:

Our second reservation and comment deals with the wording of the proposed regulation and what we assume is a simple drafting oversight. As currently written the proposal seems to suggest that all training be done by live presentation. In particular, section (c)(1)'s requirement that a person conducting an ethics orientation review the material specified by the Commission "*no more than 60 days in advance of the date the training is conducted*" would preclude any meaningful use of audio tapes, video tapes or self study programs for the training. As a result, this preclusion in our opinion creates an additional expense not contemplated by the legislature when it passed *AB 1234*. Furthermore, the regulation as worded would require that all agencies developing self-study programs in accordance with *Government Code Section 53235* seek commission consultation and review of the self-study programs.

We therefore respectfully suggest that a more reasoned wording of (c)(1) would allow for the development of self-study programs with the consultation aspect requiring review of the Commission's website within 60 days of the programs development. To ensure the programs are up to date we would suggest an additional provision requiring yearly review of the program to incorporate any changes to the applicable statutes and regulations.

This approach will give firms, and associations, the opportunity to develop standardized tapes and self-study programs for the training of the agencies they represent while also deferring that cost throughout the numerous agencies. This approach will also give agencies a greater latitude in fulfilling the training requirements because it affords those required to participate the opportunity to take the training as their schedules permit; a benefit that must have been in the minds of the legislature when it incorporated subsection (d) into *Government Code Section 53235*. Additionally, we feel that as a self-

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study program the training has the potential to be more effective than a two hour lecture course because it more forcefully attract the focus the participants.

Thank you for the opportunity to comment on the proposed regulations and please do not hesitate to contact us if we can answer any questions or be of further assistance in this manner.

Sincerely,

A handwritten signature in black ink that reads "Phillip W. Hall". The signature is written in a cursive, flowing style.

Phillip W. Hall
Associate Attorney
The Law Offices of Young Wooldridge, LLP

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North Kern Water Storage District
Wheeler Ridge-Maricopa Water Storage District
Semitropic Water Storage District
Rag Gulch Water District
Southern San Joaquin Municipal Utility District
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